

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-14 and 17-18 are pending. Claims 5-12 are hereby amended. Claims 15 and 16 were previously canceled without any prejudice and disclaimer to the subject matter.

No new matter has been introduced. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

II. REJECTIONS UNDER 35 U.S.C. §101, §112, and §103(a)

Claims 5-12 were rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter.

Claims 5-12 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite.

Claims 1-14 and 17-18 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. US 7,099,288 to Parker et al. (hereinafter, merely "Parker") in view of U.S. Patent No. 7,298,733 to Sakai et al. (hereinafter, merely "Sakai").

III. RESPONSE TO REJECTIONS

A. Response to Rejections Under 35 U.S.C. §101 and 35 U.S.C. §112

Claims 5-12 are amended, thereby obviating the rejections.

B. Response to Rejections Under 35 U.S.C. §103(a)

Applicant respectfully submits that Sakai is not a proper prior art reference.

Therefore, each of the above-rejections that relies on Sakai is invalid.

Sakai, which is a U.S. Patent granted on November 20, 2007, was filed in U.S. on March 26, 2004 (U.S. Application No. 10/491,142), which results from a PCT Application No. PCT/JP02/07665 filed on July 29, 2002. The PCT Application was published in Japanese on February 5, 2004 (PCT Publication No. WO2004/012086). The U.S. Application was published on December 2, 2004 (U.S. Publication No. 2004/0243712).

Since the U.S. filing date of Sakai, March 26, 2004, is later than the priority date of the current invention, December 10, 2002, Sakai is not a reference under 102(e)(1). Since the PCT Application of Saki was published in Japanese NOT English, Sakai is not a reference under 102(e)(2).

Since the PCT Publication date of Sakai, February 5, 2004, the U.S. Publication date of Saki, December 2, 2004, and the Patent date of Sakai, November 20, 2007, are later than the priority date of this Application, December 10, 2002, Sakai is not a reference under 102(a) or 102(b).

Therefore, Applicant submits that claims 1-14 and 17-18 are patentable.


CONCLUSION

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicant respectfully requests early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant

By 
Thomas F. Presson
Reg. No. 41,442
(212) 588-0800